

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**LEO C. PADILLA, JR.,**

Plaintiff,

vs.

No. CIV 99-648 JP/LCS

**DEPARTMENT OF HEALTH AND HUMAN  
SERVICES, Kenneth S. Apfel,  
Commissioner of Social Security,**

Defendant

**MAGISTRATE JUDGE'S PROPOSED FINDINGS  
AND RECOMMENDED DISPOSITION**

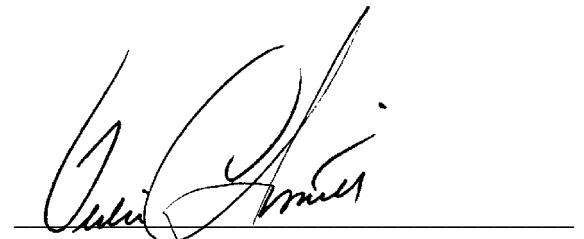
THIS MATTER comes before the Court upon the Court's Order to Show Cause (*Doc. 4*), filed September 20, 1999. In the Order to Show Cause, I noted that more than 100 days had passed since Plaintiff filed the Complaint, yet there was no indication in the docket that the Complaint had been served on the Defendant. Therefore, Plaintiff was ordered either to serve the Complaint on Defendant within thirty days or to show cause why the Complaint should not be dismissed without prejudice.

The docket in this case indicates that Plaintiff has not filed either a return of service or a response to the Order to Show Cause. More than thirty days have passed since the Order to Show Cause was issued. I propose finding that Plaintiff's lack of responsiveness indicates that he does not seek to pursue this matter. I recommend, therefore, that this case be dismissed without prejudice.

Timely objections to the foregoing may be made pursuant to 28 U.S.C. §636(b)(1)(C).

Within ten days after a party is served with a copy of these proposed findings and

recommendations, that party may file with the Clerk of the District Court written objections to such proposed findings and recommendations. A party must file any objections within the ten day period allowed if that party wants to have appellate review of the proposed findings and recommendations. If no objections are filed, no appellate review will be allowed.



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Leslie C. Smith  
UNITED STATES MAGISTRATE JUDGE